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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/753,450	01/09/2004	Kiyoshi Tateishi	041465-5216	8423

55694 7590 09/07/2006

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WASHINGTON, DC 20005-1209

EXAMINER

PSITOS, ARISTOTELIS M

ART UNIT	PAPER NUMBER
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2627

DATE MAILED: 09/07/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/753,450

Applicant(s)

TATEISHI ET AL.

Examiner

Aristotelis M. Psitos

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 January 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-13 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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DETAILED ACTION

Priority

Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

Information Disclosure Statement

The IDS documents have been received and made of record.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter, which the applicant regards as his invention.

1. Claims 1-13 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In particular:

a) independent claim 1, lines 6-13 recite the emission device and the function thereof; however, such functional description lacks the required disclosure as found in paragraph 236 of the corresponding PGPU document 2004/0145991. That is the examiner interprets this element and function to be operable only when the "data pulse" occurs with the desired apc timing period.

Lacking any such limitation, the examiner concludes the claim fails to comply with this section of the statute.

b) Independent claim 3, lines 7-14 recite the emission device as well as the phrase "partial data". The examiner cannot readily map this function with the disclosure as filed. The examiner interprets such to refer to the operation of the third embodiment – as depicted in figure 13 of the specification. Again, the examiner fails to correlate this description with the description found in paragraph 275 of the corresponding PGPU document. That is the apc timing pulse period is relied upon to ensure proper functioning of the emission device.

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c) Method claims 10,11 as well as product claims 12 and 13 suffer for the same reasons stated above with respect to claims 1 and 3, and fall accordingly.

d) The remaining dependent claims fall with their respective parent claim.

As far as the claims recite positive limitations, and as interpreted, the following art rejections are made.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims are rejected under 35 U.S.C. 102(b) as being anticipated by Shigemori.

As indicated in the corresponding PCT search report, figures 1-3, as well as col 3 line 41 till col 6 line 30, and column 7 line 13 till col. 13 line 40 anticipated the claimed invention.

With respect to claims 1, 10 and 11, those dealing with “data”, as noted in these passages, the emission device, the detection device, the acquisition device, storage devise, error calculation device and the control device are found. With respect to the phrase “depending on the data – as part of the functional description of the emission device, such is considered met by the description starting at col. 4 line 49 to col. 5 line 19.

With respect to independent claims 3, 11 and 13 (those dealing with the phrase “partial data”), applicants’ attention is drawn to the discussion with respect to figure 3 of the Shigemori reference, i.e., the code signals c during period a, b, c,.

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The dependent claims fall accordingly.

4. Claims 1-13 are rejected under 35 U.S.C. 102(b) as being anticipated by EP 1207525.

As noted in the corresponding PCT search report, paragraphs 43,53,98,109 and 111-116 meet the claimed elements of the independent claims 1,10,11.

With respect to the "partial data" phraseology for independent claims 3, 11 and 13, applicants' attention is drawn to the description of the detection pulse as described in paragraphs 111-116 of the EP document.

Dependent claims are met as discussed in the submitted PCT search report by applicants.

Conclusion

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Yokoi (US 6664526) is the US equivalent of the above relied upon PCT document, and can be used in place of the PCT document to meet the above claimed limitations.

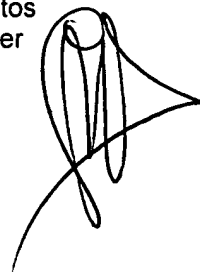
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Aristotelis M. Psitos whose telephone number is (571) 272-7594. The examiner can normally be reached on M-F: 6:00 - 2:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dwayne D. Bost can be reached on (571) 272-7023. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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Aristotelis M Psitos
Primary Examiner
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AMP